

17 December 2018

L A Shewan; OND Trustees Limited; RW Olsen & Clarke Craw and Co Nominees limited
C- Terramark Limited
P O Box 235 Dunedin
Dunedin 9054

Via email: geoff@terramark.co.nz

Dear Lynette

RESOURCE CONSENT APPLICATION: LUC-2018-419 & SUB 2018-84
35 & 35A MUSSELBURGH RISE
DUNEDIN

The above application for a 3-lot subdivision and associated land use consent was processed on a limited notified basis in accordance with Section 95 of the Resource Management Act 1991. The Consent Hearings Committee, comprised of Councillors Kate Wilson (Chairperson), Aaron Hawkins, and Independent Commissioner Ros Day-Cleavin, heard and considered the application at a hearing on 23 November 2018.

At the end of the public part of the hearing, the Committee, in accordance with Section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public. Following the conclusion of the hearing, a site visit was undertaken by the Hearings Committee.

The Committee has **granted** consent to the application on 17 December 2018. The full text of this decision commences below with a consent certificate attached to this letter.

The Hearing and Appearances

The applicant was represented by:
Lynette Shewan and Geoff Bates (Applicant's Agent).

Council staff attending were:

John Sule (Advisor to Committee), Lucy Collins (Processing Planner), and Wendy Collard (Governance Support Officer).

Submitters in attendance included:

Werner van Harselaar (owner of 1 Belmont Lane) and Simon Reay (owner of 2 Belmont Lane and lay witness called by Mr van Harselaar).

Procedural Issues

No procedural issues were raised.

Ros Day-Cleavin made a declaration advising that she was acquainted with Mr and Mrs Van Leeuwens (who had provided an affected party approval) via the school community. Ms Day-Cleavin noted she had not been in contact or spoken to the Van Leeuwens regarding this application. No matters were raised by hearing parties in response to this declaration.

Principal Issues of Contention

The principal issues of contention are as follows:

- Whether the subdivision of land zoned for residential purposes at the density proposed represented a sustainable use of land
- Whether the subdivision and residential development of land resulted in effects on residential character and amenity that were no more than minor
- Whether the circumstances of this proposal represent a “true exception”, and therefore whether any approval of the application would set an undesirable precedent
- The extent to which the proposal would contribute to the cumulative loss of residential character and amenity through ‘infill’ subdivision and residential development
- The extent to which the proposed height plane angle breach of proposed Lot 1 would result in adverse effects on the neighbouring property at 1 Belmont Lane

Summary of Evidence

Introduction from Processing Planner

The Planning Officer (Lucy Collins) spoke to a summary of the Section 42A report, giving an overview of the proposal. Ms Collins commented that 35 and 35A Musselburgh Rise, Dunedin was an existing cross lease development situated on a very long and narrow parcel of land and that there were two existing residential units with adjoined garages situated at its northwest end. She advised the cross-lease subdivision was updated in 2010. She then identified the proposal for a 3-lot subdivision and a new residential unit which was the subject of the application.

Ms Collins provided a summary of the changes to the Second-Generation District Plan (2GP) in the decisions version which came into effect on 7 November 2018 after the planner’s report was written. She outlined how this may impact on the considerations before the Committee.

Ms Collins identified that she was not the author of the Planner’s Report and noted that she had read the report and visited the site. She identified that she supported the assessment within the report prepared by Lianne Darby and the recommendation to grant consent subject to conditions.

Ms Collins responded to a question regarding the relevant 2GP changes and she advised the Committee that in her view 2GP objections and policies are more directive than the operative plan versions. She noted that the rules had been changed in relation to height plane angle with an exemption being provided for narrow sites.

In respect of the weight to be given to various provisions the Committee advisor noted that there was no simple rule of thumb and weighting was a complex issue that was dependent on the nature and context of the application. In general, the legal advice the Council had received indicated that more weight was to be given to the operative Plan as appeals could alter the final form of the 2GP rules but there would be cases where there is better coverage and more detail on an environmental issue in the 2GP that is not well covered in the operative Plan and in these cases more weight may be afforded to the 2GP provisions.

In response to a question on the permitted baseline Ms Collins acknowledged that the 2GP does not allow family flats to be considered in terms of a permitted baseline. Despite this she noted there was still a permitted baseline for redevelopment of the existing site that would provide a similar level of building bulk to that proposed under the application and vegetation could be removed.

In response to a question on consistency with 2GP policies Ms Collins acknowledged that the proposal, while generally consistent, was inconsistent with Policy 15.2.4.2 that requires subdivision density to reflect the existing or intended future character of the zone. Inconsistent was a correct assessment in her view as the site was an existing situation where two small units are located on a narrow site. The effect on amenity from these units is existing but the proposal will add a third unit and the wider development context is more spacious.

In response to a question on the decision to only notify the owners and occupiers of 1 Belmont Lane, Ms Collins indicated that she was comfortable with the neighbour at 2 Belmont Lane not being identified as an affected party and the process that had been undertaken. As the permitted baseline applied in relation to the bulk of buildings possible on the existing site and as the height plane breach was only minor she considered that the owners and occupiers at 2 Belmont Lane were not affected.

The Applicant's Case

Geoff Bates tabled submissions and spoke to a summary of the application. Mr Bates provided updated plans showing the effect of the Height Plane Angle in the decisions version of the 2GP. He later confirmed that the only change in these plans from those provided with the application was the inclusion of the decision version 2GP height plane angle.

Mr Bates responded to a Committee question as to why he considered the effects of the breach were minor and what in his view would be a substantive effect. Mr Bates identified the location of the dwelling in relation to the neighbouring site at 1 Belmont Lane, the limited extent of the height plane breach over a portion of the building and the influence of topography contributed to the breach being considered a minor effect.

The nature and use of cross-leases was examined by the Committee. Mr Bates advised that cross-leases were rarely used following the introduction of the RMA. As they were considered a subdivision under the RMA their benefits in avoiding District Plan density controls were lost and had they had limitations when alterations were undertaken to existing buildings. He advised the Committee that the existence of an undeveloped additional court was unusual. The unusual nature of the undeveloped court was confirmed by the Committee Advisor.

The Committee then through questioning examined the proposed design and potential for the design to be altered after resource consent had been granted. Mr Bates noted that the narrow site would likely restrict any additional height being added at a later date triggering a requirement for a further resource consent. Affected parties to any further consent would be a decision for the Council to make.

The Committee Advisor noted that the land use consent would be issued for three sites and therefore the consent would need to be partially surrendered to remove any conditions on the consent. This process would be subject to a further assessment by the Council. This gave a degree of certainty as to the likely outcome.

Evidence of Submitters

Werner van Harselaar spoke to his submission in opposition and provided an overview of his property for the Committee. Mr van Harselaar commented on the nature of the area noting that it had a number of large character houses and this helped to define the area of Musselburgh Rise. He feels that infill housing is not appropriate for this area as the area is mostly larger houses on larger sites.

He noted that when the applicant initially discussed this proposal with him on the basis the new unit would be a granny flat he was not overly concerned with that use. He is however concerned about the proposal before the Committee due to its size and its establishment on a separate title. He had initially assumed that it would be complying and that it would be a much smaller dwelling. He noted that the proposed garage looks like a turret.

Mr van Harselaar also noted that his driveway is at a lower elevation than the proposed dwelling which would be at the same height at the property at number 2 Belmont Lane. This may create shading impacts. He identified that he expected the open area below the existing unit on proposed Lot 2 would not be able to be developed and he commented that had he known they would have done something to protect it when it came up for sale in the past. Mr van Harselaar noted the importance of the local environment with healthy bird life present to himself and his family. The effect of the proposed subdivision and new unit would mean a less leafy area and diminished amenity.

He noted the building in particular the turret will impact on their driveway. He considers it will shade the driveway and slow thawing of ice in winter.

Mr van Harselaar noted that he considered anything built needs to be within the District Plan requirements and should be a smaller dwelling. He noted his concern about inadequate parking given the street parking issues.

In response to a question from the Committee Mr van Harselaar confirmed that in his view the oak tree was critical to maintaining amenity values and buffering the effects.

In response to questions Mr van Harselaar advised that he considered the height plane breach significant and that the development should maintain as much open space as possible.

Mr van Harselaar called Mr Reay as a witness in support of his submission in opposition. He suggested that Mr Reay is affected due to the height of the building and there is an impact on 2 Belmont Lane. Mr Reay reiterated the comments that Mr van Harselaar had made in respect to the nature of the area. He noted that there are a lot of older homes and a lot of significant trees and vegetation. The recent removal of a tree had already created a visual difference to the setting. He considered that while individual breaches may be minor they can have an cumulative effect and precedent was a concern. When the other two dwellings were considered there were a number of side-yard and height plane breaches. He reiterated Mr van Harselaar's concern regarding the driveway and that a building would have a negative effect on it. Mr Reay commented on the birdlife that exists in the area and feels that a new dwelling would not enhance the bird life.

Mr van Harselaar clarified for the Committee the ability to access Musselburgh Rise via steps and a ramp and this provided access to a bus stop and provided pedestrian access to the shops. Mr van Harselaar noted that he allowed access through their property to the street which seemed to have a stronger desire line for those wanting to go to the local centre.

Processing Planner's Review of Recommendation

Ms Collins reviewed the planner's recommendation in light of the evidence presented at the hearing, maintaining the planner's recommendation to grant consent.

She briefly responded to matter raised in submissions and noted in response to a question that the 2GP decision changes haven't altered the policy framework significantly.

She noted in a response to a question from the Committee that the recommended maximum site coverage for Lot 3 would be effective in mitigating overall effects of building bulk across the three proposed sites. However she advised the Committee that they could consider other measures such as a no build area or a condition protecting the tree or a maximum height of buildings as alternatives or in combination with the site coverage condition.

Applicants Right of Reply

Mr Bates commented on the District Plans intention to control development to protect the character of an area of a particular zone. He noted that the narrowness of the property will protect the character of the area into the future. He noted the shading of the driveway would be minimal and the property is south of 1 Belmont lane and the sun does not come from the south. In his view the majority of the shading on the driveway will come from 1 and 2 Belmont Lane.

The applicant clarified that the proposal is for a one bedroom unit and the proposed attic had very narrow steep stairs and do not consider it a bedroom for a young person.

He noted that the retention of the Oak Tree was identified during consultation as important and was a condition of affected party approvals which is why the dwelling has been placed where it had been. He noted additional parking could be provided at the front of the property if it was required. He noted that the new building is not a big build being 114m² including a garage and the applicant accepted the 140m² coverage restriction recommended. Mr Bates noted that the narrow site constrains what could be built as of right. The height plane breach under the operative Plan is very minor in his view and not an issue.

Mr Bates noted that the applicant was happy to promote that Lot 3 could not be further subdivided along with the 140m² coverage. In his opinion the site is not suited for families and the 2GP promotes infill subdivision. He considers that this proposal is what the proposed Plan provides for on a complying site.

Statutory and Other Provisions

In accordance with Section 104 of the Resource Management Act 1991, the Planner's Report detailed in full the relevant statutory provisions and other provisions the Committee considered. Regard was given to the relevant provisions of the following chapters of the operative Dunedin City District Plan: 4 Sustainability, 8 Residential Zones, 18 Subdivision and 20 Transportation. In addition the decision's version provisions of the 2GP were considered by the Committee. Relevant sections included: 2 Strategic Directions, 6 Transport, 9 Public Health and Safety and 15 Residential. Statutory provisions considered included Sections 104 and 104D. Specific referral back to Part 2 was not considered necessary as the matters before the Committee were adequately addressed by the provisions of both Plans. Regard was also given to the Regional Policy Statement for Otago.

Main Findings on Principle Issues of Contention

The Hearings Committee has considered the evidence heard, the relevant statutory and plan provisions, and the principle issues in contention. The main findings on the principle issues have been incorporated within the reasons discussed below.

Decision

The final consideration of the application, which took into account all information presented at the hearing, was held during the public-excluded portion of the hearing. The Committee reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991. In addition, a site visit was undertaken during the public-excluded portion of the hearing, the Committee inspected the site and this added physical context to the Committee's considerations.

SUB-2018-84

*That pursuant to section 34A(1) and 104B of the Resource Management Act 1991, and after having regard to sections 104 and 104D of the Act, and the provisions of the Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying** activity being the subdivision of Lot 1 DP 11751 (CCRs 525449 and 525450) at 35 and 35A Musselburgh Rise, Dunedin, into three lots, subject to the conditions imposed under sections 108 and 220 of the Act, as shown on the attached certificate.*

Land use LUC-2018-419

*That pursuant to section 34A(1) and 104B and after having regard to sections 104 and 104D of the Resource Management Act 1991, and the Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying** activity being:*

- *The retention of the existing residential units on new under-sized Lots 1 and 2 SUB-2018-84;*
- *The bulk and location breaches of the existing buildings on Lots 1 and 2 SUB-2018-84 in respect of the existing and new boundaries;*

- *Amenity open space on Lot 1 SUB-2018-84 which is incapable of containing a 4.5m diameter circle;*
- *The bulk and location breaches of the new residential unit on Lot 3 SUB-2018-84 in terms of the existing side boundaries; and*
- *An under-width access for the number of users;*

at 35 & 35A Musselburgh Rise, Dunedin, subject to conditions imposed under section 108 of the Act, as shown on the attached certificate.

Reasons for this Decision

The Committee noted that the application was lodged on 25 July 2018, after the close of submissions on the Proposed Plan and that the staff s42 Report was prepared based on information available on 23 October 2018, prior to the release of Decisions on the Proposed Plan. On 7 November 2018, the decisions on the Proposed Plan were notified and despite still being subject to appeal, the Committee acknowledged it must now give effect to its provisions as part of the decision-making framework under the Resource Management Act 1991.

The Committee noted that there was no dispute that the proposed subdivision and associated land use consent are non-complying activities, and that it is necessary for the proposal to pass the “gateway test” of section 104D of the Resource Management Act 1991. This requires that either the environmental effects of the proposal are no more than minor, or the proposal is not contrary to the objectives and policies of the operative and proposed District Plans, when assessed as a whole. The Committee was satisfied that the NES (Soil Contaminants) was not relevant to this application.

In regard to the proposed land use for the new lots, the Committee noted that the proposed subdivision will create two undersized lots with existing dwellings. The Committee noted the relevant historic context where the original cross lease subdivision and the titles of the subject site indicate that there was always an intention to have three residential units on this land. The Committee further noted that if proposed Lots 1 and 2 were existing sites, they could be developed with a residential unit as of right and the outcome would be the same as the existing development. The Committee agreed that the vacant site created by this subdivision, proposed Lot 3, will be a compliant site which can be developed with a residential unit as a permitted activity.

The Committee accepted the Planning Officer’s advice that the permitted baseline does not offer a useful comparison for the Committee’s assessment with regard to subdivision as neither the District Plan nor the Proposed Plan allows any subdivision to occur as of right. The Committee noted that it was not able to consider family flats as part of the permitted baseline assessment.

The Committee noted that the proposed dwelling on Lot 3 would breach the height plane angle along the eastern side boundary as well as the western side boundary under the Operative District Plan. The Committee acknowledged and considered the concerns of submitter Mr van Harselaar, the adjoining neighbour at 1 Belmont Lane. Having visited the site, the Committee was satisfied that the proposed height plane angle breach next to 1 Belmont Lane will have very few effects on that property. During its site visit, the Committee was able to observe the large distance (approximately 27m) between the section of the maximum breach of the proposed dwelling from the closest corner of the house on the neighbouring property, and the small shed on that property being positioned in front of the proposed house. The Committee accepted the advice from the Planning Officer that the Proposed District Plan provides for narrow sites to have a larger height plane angle and as such under the Proposed District Plan (Decisions Version) the proposed dwelling on Lot 3 would no longer breach the height plane angle along the eastern side boundary.

The Committee was satisfied that all relevant affected party approvals were provided by the owners and occupiers of all the users of the driveway affected by the breach of the western side boundary and as such the Committee is not able to consider any effects of these parties as part of the decision-making process.

The Committee was satisfied that the proposed subdivision and residential development of the subject site will not have significant adverse effects in terms of its residential zoning and residential character and will not result in any cumulative effects on infrastructure capacity or the amenity values of the area. The Committee agreed with the recommendation of the Planning Officer that the effects of the proposal can be appropriately mitigated by conditions of consent so as to be no more than minor in relation to infrastructure, transportation, hazards, bulk and location and amenity. In particular, the Committee took comfort in the proposed condition of consent, accepted by the applicant during the Hearing, requiring a maximum site coverage on Proposed Lot 3 which will provide certainty for Council and adjoining properties in the area that a compliant site coverage across Lots 1, 2 and 3 must be maintained.

In terms of the assessment of the proposed activity against the relevant policy framework, the Committee noted that the staff s42A report was written before decisions on the Proposed Plan were released and so the objectives and policies of the Operative Plan given more weight in the policy and statutory assessments contained within the staff s42A report. The Committee carefully considered the verbal advice offered by the Planning Officer at the Hearing where the key changes in the Residential objectives and policies as a result of the Proposed Plan (Decisions Version) were established. The Committee accepted the Planning Officer's evaluative view that there was no material change to the recommendation as a result of the decisions on the Proposed Plan.

The Committee considered that the proposal is consistent with the objectives and policies of the Dunedin City District Plan and the Proposed Plan in relation to Manawhenua, infrastructure and servicing, transportation, sustainability, hazards, health and safety, strategic directions and residential activity. The Committee accepted the Planner's view that the proposal is inconsistent with the objectives and policies of the Dunedin City District Plan and Proposed Plan in relation to density for the residential zones. The Committee noted the proximity of a neighbourhood centre to the development that the occupiers of the new sites could walk to. It considered the development would be consistent with the centres based approach of the 2GP.

The Committee were encouraged by, and mindful of, Mr van Harselaar's care and concern for the residential amenity and character of the area and obvious sympathy with the environment of the site and surrounding area. However, having visited the site, it is the Committee's considered view that the effects of the existing two houses on small sites are already well established in this location and that the effects of the proposal are largely anticipated by the zoning of the site. Taking into account the context of the site and surrounding residential area, the Committee noted that the proposed density, being greater than the District Plan allows, is not unrepresented in the area with evidence of infill subdivision having occurred in this locality.

The Committee notes that the retention of the oak tree was a factor in the applicant obtaining affected party approvals from neighbours and was identified by Mr van Harselaar as an important local amenity contributor. As a consequence the Committee has imposed a condition requiring the retention of the tree.

Careful consideration was given by the Committee to all the evidence presented to determine if there were factors about the proposed development, subject site and environment, which would set the application apart from other potential applications in a robust and meaningful way. The Committee was satisfied that the proposal is a true exception and reached the view that the subject site is unusual and in this case is unlikely to lead to an undesirable precedent if granted. The existing cross lease subdivision and the arrangement of the two existing dwellings on-site, combined with the very long and narrow dimensions of the subject site were key factors contributing to the Committee's view.

The Committee believe that the proposal will not give rise to more than minor adverse environmental effects and satisfies both gateway tests contained in Section 104D of the Resource Management Act 1991. As such, the Committee were, therefore, able to consider the granting of consent to the proposal.

The Committee concluded that the granting of the consent would be consistent with the purpose of the Resource Management Act 1991 to promote the sustainable management of natural and physical resources.

Right of Objection (remove this section if it does not apply)

Pursuant to Sections 357A(1)(f) and 357A(2) of the Resource Management Act 1991, the consent holder may object to this decision or any condition if:

- (i) The application was notified, and
- (ii) Either no submissions were received or any submissions received were withdrawn.

And

- (a) The application was for a controlled activity, or
- (b) The application was for a restricted discretionary, discretionary or non-complying activity that was not declined by the Hearings Committee, or
- (c) The application was declined by an officer under delegated authority.

Any objection must be made within 15 working days of the decision being received, by applying in writing to the Dunedin City Council at the following address:

Senior Planner - Enquiries
Dunedin City Council
PO Box 5045
Moray Place
Dunedin 9058

In accordance with Section 357AB of the Resource Management Act 1991, the consent holder may, when making the objection, request that the objection be considered by a hearings commissioner. The Council will then delegate its functions, powers and duties in relation to consider and decide the objection to an independent hearings commissioner. Please note that the applicant may be required to pay for the full costs of the independent hearings commissioner.

Right of Appeal

Pursuant to Section 120(1A) of the Resource Management Act 1991, no right of appeal to the Environment Court against the whole or any part of this decision exists for the following:

- (a) *A boundary activity, unless the boundary activity is a non-complying activity;*
- (b) *A subdivision, unless the subdivision is a non-complying activity;*
- (c) *A residential activity, unless the residential activity is a non-complying activity.*

(Refer Section 87AAB of the Act for definition of “boundary activity”, and refer to Section 95A(6) for definition of “residential activity”).

For all other applications, in accordance with Section 120 of the Resource Management Act 1991, the applicant and/or any submitter may appeal to the Environment Court against the whole or any part of this decision within 15 working days of the notice of this decision being received.

The address of the Environment Court is:

The Registrar
Environment Court
PO Box 2069
Christchurch Mail Centre
Christchurch 8013

Any appeal must be served on the following persons and organisations:

- The Dunedin City Council.
- The applicant(s).
- Every person who made a submission on the application.

Failure to follow the procedures prescribed in Sections 120 and 121 of the Resource Management Act 1991 may invalidate any appeal.

Commencement of Consent

As stated in Section 116 of the Resource Management Act 1991, this consent will only commence once the time for lodging appeals against the grant of the consent expires and no appeals have been lodged, or the Environment Court determines the appeals or all appellants withdraw their appeals, unless a determination of the Environment Court states otherwise.

Monitoring

Section 35(2)(d) of the Resource Management Act 1991 requires every council to monitor resource consents that have effect in its region or district. The scale and nature of the activity, the complexity and number of the conditions needed to address the environmental effects and whether the conditions have been complied with determines the number of monitoring inspections required. Given the nature of your intended works, this consent will require one inspection.

The City Planning Department sets out the fixed fees charged for monitoring in its schedule of fees. The fee for your scheduled inspection will be included in the invoice for your application.

It should be noted that if additional inspections are required, beyond those scheduled at the time the consent is issued, then there is the ability to apply additional charges to cover the costs of these extra inspections. Often you can reduce the need for additional inspections by complying with the conditions of consent in a timely manner and by ensuring on-going compliance with those conditions. Please ensure that you read the conditions of your consent carefully to establish your obligations when exercising your consents.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Kate Wilson', written in a cursive style.

Kate Wilson
Chair
Hearings Committee

Consent Type: Subdivision

Consent Number: LUC-2018-419 & SUB 2018-84

Purpose: A 3-Lot Fee Simple Subdivision

Location of Activity: 35 & 35A Musselburgh Rise, Dunedin.

Legal Description: Lot 1 DP 11751 (Computer Freehold Register CCRs 525449 and 525450).

Lapse Date: 17 December 2023, unless the consent has been given effect to before this date.

Conditions

1. *The proposal shall be given effect to generally in accordance with the plan prepared by Terramark, entitled, 'Lots 1-3 being a Proposed Subdivision of Lot 1 DP 11751,' dated July 2018, as attached to this certificate in Appendix One, and the accompanying information submitted as part of SUB-2018-84 received at Council on 25 July 2018, except where modified by the following:*
2. *That prior to certification of the survey plan pursuant to section 223 of the Resource Management Act 1991, the applicant shall ensure the following:*
 - a) *That if a requirement for any easement for services is incurred during the survey, then those easements shall be granted or reserved and included in a Memorandum of Easements.*
 - b) *That service easements must be created over Lot 2 and 3 in favour of Lots 1 and 2, as necessary, and must be shown on the survey plan in a Memorandum of Easements.*
 - c) *That a right of way must be created over the full length of the 0.3m wide strip of land (Lot 1 DP 11570) in favour of Lots 1, 2 and 3, and must be shown on the survey plan in a Memorandum of Easements.*
 - d) *That a party wall easement must be created along the new boundary of Lots 1 and 2 where the garage wall is shared, and must be shown on the survey plan in a Memorandum of Easements.*
3. *Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the applicant shall complete the following:*

Services:

 - a) *As the two existing units currently share one water supply connection, the existing water supply to the residential unit on Lot 2 must be disconnected, leaving the existing connection serving the residential unit of Lot 1 only.*
 - b) *An "Application for Water Supply" is to be submitted to the Water and Waste Services Business Unit for approval to establish a new water*

connection to Lots 2 and 3. Details of how the lots are to be serviced for water shall accompany the "Application for Water Supply".

- b) Upon approval by the Water and Waste Services Business Unit, water service connections shall be installed in accordance with the requirements of Section 6.6.2 of the Dunedin Code of Subdivision and Development 2010.*
- c) A Stormwater Management Plan must be provided to the Three Waters Group for approval before any construction commences on the new dwelling of Lot 3. The Stormwater Management Plan must outline how stormwater from each lot of the subdivision will be managed to ensure post-development flows do not exceed pre-development flows, and identify and address any downstream effects of the stormwater generated by the development, including any mitigation required.*

The SWMP must be attached to the consent notice of condition 3(d) below:

- d) That a consent notice must be prepared for registration on the titles of Lot3 for the following on-going condition:*

'The development and on-going stormwater management of this site must be undertaken in accordance with the attached Stormwater Management Plan which applies to this site and the wider area. Any requirements for this site specified in the Stormwater Management Plan must be adhered to as part of the establishment of residential development on this site.'

This consent notice may be rewritten to address specific requirements of the SWMP, if applicable, in consultation with Council's Subdivision Planner at the time of obtaining s224(c) certification.

- e) The existing dwelling on Lot 2 must be disconnected from the shared stormwater lateral serving the existing units of Lots 1 and 2. A new separate stormwater lateral discharging to the Musselburgh Rise kerb and channel must be installed for Lot 2.*
- f) A new stormwater lateral to Council-owned services in Musselburgh Rise must be installed for Lot 3.*
- g) The existing dwelling on Lot 2 must be disconnected from the shared wastewater lateral serving the existing units of Lots 1 and 2. A new separate wastewater lateral discharging to the Council-owned services in Musselburgh Rise must be installed for Lot 2.*

Advice Notes

1. Please check with the Council's Building Control Office, Development Services, to determine the building consent requirements for the work.
2. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through Sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
3. Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
4. It is the consent holder's responsibility to comply with any conditions imposed on their resource consent prior to and during (as applicable) exercising the resource consent.

Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.

5. This consent will lapse after a period of five years from the date of granting of this consent. This period may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.

Issued at Dunedin on 17 December 2018

A handwritten signature in black ink, appearing to read 'Kate Wilson', with a stylized, cursive script.

Kate Wilson
Chair
Hearings Committee

Consent Type: Land Use Consent

Consent Number: LUC-2018-419 & SUB 2018-84

Purpose: To authorise 2 existing units on new sites (Lots 1 & 2 of SUB 2018-84) and a new residential unit to be established on Lot 3 of SUB 2018-84.

Location of Activity: 35 & 35A Musselburgh Rise, Dunedin.

Legal Description: Lot 1 DP 11751 (Computer Freehold Register CCRs 525449 and 525450).

Lapse Date: 17 December 2023, unless the consent has been given effect to before this date.

Conditions

- The proposal shall be given effect to generally in accordance with the plan prepared by Terramark, entitled, 'Lots 1-3 being a Proposed Subdivision of Lot 1 DP 11751,' dated July 2018, as attached to this certificate in Appendix One, and the accompanying information submitted as part of SUB-2018-84 received at Council on 25 July 2018, except where modified by the following:*
- The consent holder must advise the Council, in writing, of the start date of the works. The written advice must be provided to Council at least five (5) working days before the works are to commence.*
- Maximum site coverage on Lot 3 (house and any accessory buildings) must not total more than 140m² in order to maintain a compliant site coverage across Lots 1, 2 and 3 of SUB-2018-84.*
- The Oak Tree located on Lot 3 is to be maintained in good health.*
- The tree is to be protected through the construction phase of the new building. A suitable temporary barrier must be erected on the site while work is taking place to keep construction activity off the root zone of the oak tree. No equipment/heavy machinery is to be stored within the drip line or canopy spread of the oak tree on the site.*

Advice Notes

- Please check with the Council's Building Control Office, Development Services, to determine the building consent requirements for the work.
- In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through Sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
- Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.

4. It is the consent holder's responsibility to comply with any conditions imposed on their resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
5. This consent will lapse after a period of five years from the date of granting of this consent. This period may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.

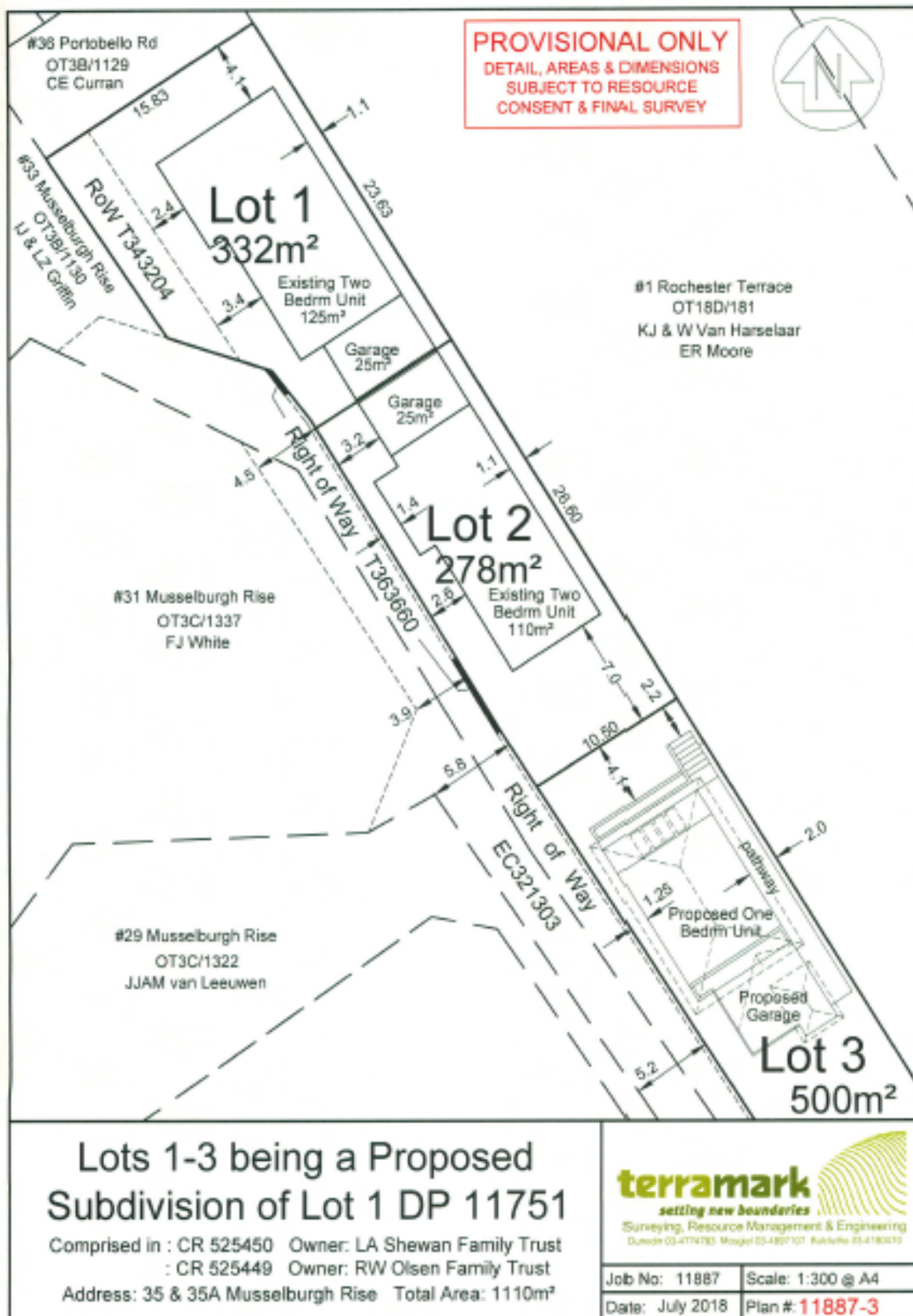
Issued at Dunedin on 17 December 2018

A handwritten signature in black ink, appearing to read 'Kate Wilson', with a stylized, cursive script.

Kate Wilson
Chair
Hearings Committee

Appendix One: Approved Plans for LUC-2018-419 & SUB 2018-84 (scanned images, not to scale)







STRUCTURAL



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PROJECT
Dunedin Apartment
350 MUSSELBURGH RISE
DUNEDIN

DESIGNED: **P.S. & O.L.R.**
DRAWN: **O.L.R.**
DATE: **3/5/18**
JOB NO: **18.239**

SHEET TITLE
Sections

SCALES	ORIGINAL SHEET SIZE
1:50	A3
REVISION	SHEET NO
0	S1

